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In re Application of  
VOLLOCH et al.

Application No.: 09/936,879

: DECISION ON

PCT No.: PCT/US00/07350

: PETITION UNDER

Int. Filing Date: 17 March 2000

: 37 CFR 1.137(b)

Priority Date: 18 March 1999

Attorney Docket No.: A32367-PCT USA

For: SCREENING METHODS FOR COMPOUNDS  
USEFUL IN THE REGULATION OF CELL  
PROLIFERATION

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 08 January 2003.

### BACKGROUND

On 17 March 2000, applicant filed international application PCT/US00/07350, which designated the United States and claimed a priority date of 18 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 September 2000, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 September 2001.

On 18 September 2001, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 25 October 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating, *inter alia*, that an oath or declaration of inventors and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a two month extendable period for response.

On 03 December 2002, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned as to the United States for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 25 October 2001.

On 08 January 2003, applicants submitted the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(e).

### DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a declaration of inventors on 08 January 2003. However, the declaration of inventors fails to comply with 37 CFR 1.497(a)-(b). First, the application identified in the declaration is not the instant application. The application identified is a continuation of the instant application rather than the instant application itself. Second, it is not clear from the declaration filed 08 January 2003 that the declaration presented to and signed by the inventors was complete. In this declaration, pages 1 and 2 appear to be original sheets while page 3 appears to have been transmitted by facsimile. This suggests that the signature page of the declaration was not associated with the first and second pages of the declaration at the time of execution, thus rendering the execution improper. Applicants must submit either a single declaration executed by all of the inventors or in the alternative a copy of the entire declaration for each signed declaration. Thus, item (1) has not been met.

As to item (2), applicant submitted the petition fee for a small entity on 08 January 2003.

As to item (3), a grantable petition has not yet been submitted. Thus, item (3) has not been met.

### CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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